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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,349	07/02/2004	Lori Amthor Fulks	LF01	4348
27797	7590	05/03/2006	EXAMINER	
RICHARD D. FUERLE 1711 W. RIVER RD. GRAND ISLAND, NY 14072			COLLADO, CYNTHIA FRANCISCA	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/710,349		FULKS, LORI AMTHOR	
	Examiner		Art Unit	
	Cynthia F. Collado		3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 1-6,8,9,10 and 14-18 is/are rejected.
- 7) ☒ Claim(s) 7 and 11-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant submitted an amendment dated March 7, 2006, wherein claims 1-20 are pending in the application, of which claims 1, 17 and 19 are independent. Claims 1, 17 and 19 are amended.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-6, 9-10, 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan, 3rd (US Patent No. 4, 290,643) in view of Kilmer'048 (US Patent No. 6, 312,048).

Regarding claims 1 and 17 Logan discloses a collapsible chair having two front legs without wheels (see figure 1, element 26), two back legs (see figure 1, element 25),

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a flexible seat (see figure 1, element 1), a flexible back (see figure 1, element 22), and an armrest on each side of the seat (see figure 1, element 23), flexible material between the seat and each arm rest (figure 1, elements 23 and 1) and between the seat (see figure 1, element 23) and the back (see figure 1, element 22), that prevents items placed on the seat from falling off the seat when the chair is tipped and pulled, a lock for securing the chair in an open position or in a collapsed position (see figure 2, element 13). Logan lacks the teaching of wheels and a handle, however Kilmer discloses at least one wheel attached behind the bottom of each back leg so that the wheels do not bear the weight of the chair except when the chair is tipped (see figure 1a, element 20), Kilmer also discloses a handle attached the top of the chair (see figure 1a, element 14), whereby the chair can be tipped and pulled by the handle with the weight of the chair borne by the wheels (see figure 1b, element 20) when the chair is in an open or collapsed position (see figure 1b). Based on the teaching of Kilmer, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the collapsible chair of Logan to include a handle and wheels behind the rear legs as in Kilmer so as to make it easier to the user when transporting the chair from one location to the other.

Regarding claim 2, Kilmer discloses dual wheels except for a single wheel attached to the bottom of each leg. It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach a single wheel to the bottom of each leg, since it has been held that omission of an element and its function in a

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combination where the remaining elements perform the same functions as before involves only routine skill in the art.

Regarding claim 3, Kilmer discloses dual wheels attached to the bottom of each back leg (see figure 1, element 20).

Regarding claim 4, Logan teaches flexible material is netting (see figure 1, element 23).

Regarding claim 5, Kilmer teaches a lock for holding the chair in a collapsed or open position (see figure 1b, elements 40 and 41).

Regarding claim 6, Kilmer teaches the handle attached to both sides of the chair (see figure 1).

Regarding claim 9, Logan teaches a flexible seat and flexible back made of fabric (figure 1, element 23).

Regarding claim 10, Logan teaches tubular legs and made of steel or aluminum (see figures 4 and 5).

Regarding claim 14, Logan discloses the claimed invention having openings in the netting, but does not provide scale. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the opening of the netting about one fourth to about three fourth inches, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

Regarding claim 15, Logan discloses the netting attached to the back of the chair (see figure 1, element 22).

Regarding claim 16 and 18, Under the principles of inherency, if a prior art device, in its normal and usual operation, would be necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *In re King*, 801 F.2d 1324,231 USPQ 136 (Fed. Cir. 1986).

Claim Rejections - 35 USC § 103

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Logan, 3rd (US Patent No.4, 290,643) in view of Kilmer'048 (US Patent No.6, 312,048) and further in view of Examiner's Official Notice.

Regarding claim 8, Logan and Kilmer lack the teaching of item on the seat of a collapsible chair and pulling the chair by the handle, Examiner is taking official notice that it is common knowledge to one of ordinary skill in the art to include an item on the seat of a collapsible chair and pulling the chair by the handle making it easier on the elderly to haul. (See section 2144.03 of MPEP)

Allowable Subject Matter

6. Claims 7,11,12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 19-20 are allowable.

Response to Arguments

Applicant's arguments with respect to claims 1-3,5-8,11-15 and 17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

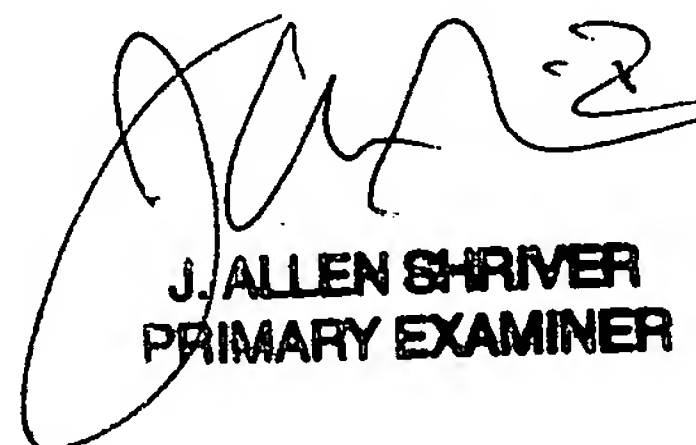
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia F. Collado whose telephone number is (571)2728315. The examiner can normally be reached on mon-fri 8-4.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571)2726914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


CFC 5/1/06


J. ALLEN SHRIVER
PRIMARY EXAMINER